IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 27TH APRIL 2007 / 7TH VAISAKHA 1929

WP(C).No. 30208 of 2006(U)

PETITIONER:

P.K.BEERAN KUTTY, S/O. MUHAMMED HAJI,
NELLISSERY HOUSE, KUZHIMANNA P.O.,
MALAPPURAM DISTRICT.

BY ADV. SRI.JACOB ABRAHAM

RESPONDENTS:

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1. SULAIMAN, S/O. POCKER,
KANNANCHERY HOUSE, KUZHIMANNA,
MALAPPURAM DISTRICT.

2. THE DEPUTY DIRECTOR OF EDUCATION,
MALAPPURAM.

3. STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO THE GOVERNMENT,
DEPARTMENT OF GENERAL EDUCATION,
GOVERNMENT SECRETARIAT, TRIVANDRUM.

4. THE ASSISTANT EDUCATIONAL OFFICER,
KIZHISSERY, MALAPPURAM DISTRICT.

5. THE KUZHIMANNA GRAMA PANCHAYATH,
KUZHIMANNA, MALAPPURAM DISTRICT,
REPRESENTED BY ITS SECRETARY.

6. THE HEAD MASTER,
G.L.P.S. SCHOOL, KUZHIMANNA,
MALAPPURAM DISTRICT.

7. THE DEPUTY SECRETARY TO THE GOVERNMENT
OF KERALA, DEPARTMENT OF GENERAL EDUCATION,
GOVERNMENT SECRETARIAT, TRIVANDRUM.

R1 BY ADV. SRI.K.RAMAKUMAR
SRI.SUNNY MATHEW
R2 TO R4 & R7 BY GOVERNMENT PLEADER
(SMT. M. R. SREELATHA)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/03/2007, THE COURT ON 27.4.2007 DELIVERED THE FOLLOWING:

APPENDIX IN W.P.(C) NO. 30208 OPF 2006 U

PETITIONER'S EXHIBITS:

EXT.P1 **TRUE COPY OF THE ORDER NO.D3/3874/2003 DT. 8.3.2003 PASSED BY THE SECOND RESPONDENT.**

EXT.P2 **TRUE COPY OF THE FIFTH RESPONDENT'S DECISION NO.II (1) DATED 11.5.2004.**

EXT.P3 **TRUE COPY OF THE JUDGMENT DATED 13.3.2006 OF THIS HONOURABLE COURT IN W.A. NO.597/04.**

EXT.P4 **TRUE COPY OF THE JUDGMENT DATED 5.2.2004 OF THIS HONOURABLE COURT IN W.P.(C) NO.34131 OF 2003.**

EXT.P5 **TRUE COPY OF THE SEVENTH RESPONDENT'S ORDER NO.4307/06/DATED 4.10.2003.**

<u>RESPONDENTS EXHIBITS:</u>

EXT. R1(A) TRUE COPY OF PARTICULARS OF THE MEETING OF THE PARENT TEACHERS' ASSOCIATION ALONG WITH A COVERING LETTER OF THE HEADMISTRESS DATED 2.12.2006.

EXT.R1(B) TRUE COPY OF RESOLUTION DATED 22.9.2003 BY THE KUZHIMANNA GRAMA PANCHAYAT.

// TRUE COPY//

PS TO JUDGE

K. M. JOSEPH, J.

W.P.C. NO. 30208 OF 2006 U

Dated this the 27th April, 2007

JUDGMENT

Case of the petitioner, in brief, is as follows:

Petitioner was the former President of the Parent Teachers Association of K. Alikutty Haji Memorial Government Lower Primary School, Kuzhimanna. At present, he is the Member of the Association. K. Alikutty Haji Memorial Government Lower Primary School, Kuzhimanna was known as G.L.P.School, Kuzhimanna. Late K. Alikutty Haji was an eminent person in the erstwhile Calicut District. He was the President of the Kuzhimanna Panchayat for nearly sixteen years. He was a person with the vision of a Statesman and there were no Schools in the locality. He came forward to establish the School with his own funds and in his own property. The property in which the School was established, was acquired by the Government and late Alikutty Haji refused to receive the interest component of

the compensation. Accordingly, by Ext.P1 order, the second respondent, Deputy Director of Education ordered the change of the name of the School as "K. Alikutty Haji Memorial Government Lower Primary School, Kuzhimanna". This was ratified by Ext.P2 by fifth respondent Panchayat as per its decision dated 11.5.2004. First respondent challenged Ext.P1 order. Petitioner was not made a party, but he got himself impleaded. Ext.P4 is the Judgment of the learned Single Judge of this Court by which the Writ Petition was dismissed. Ext.P3 is the Judgment in the Writ Appeal. It appears, the first respondent preferred a representation which was disposed of by the Government vide Ext.P5. Ext.P5 is challenged. By Ext.P5, the Government has set aside the order of the Deputy Director. It is stated therein that before passing Ext.P1 order, the Deputy Director had not obtained the views of the Panchayat. Further, it is stated that there was no reason for changing the name of the

School. In such circumstances, petitioner challenges Ext.P5. It is stated that in the Judgment in the Writ Appeal, this Court only permitted the representation to be filed. It is further submitted that it was without hearing the petitioner, the Parent Teachers Association and respondent 2, 5 and 6 that the decision was taken. Learned counsel reiterated the facts to show that there was a reason for changing the name as ordered in Ext.P1 and having regard to Ext.P2 decision of the Panchayat, Ext.P5 cannot be sustained. Counsel would submit that this Court may direct the matter to be reconsidered, at any rate, after notice to the affected parties including petitioner.

2. A Counter Affidavit is filed by first respondent. Therein, it is stated that the Writ Petition was dismissed with the observation that if the petitioner is aggrieved, he can file a representation before the Government. It is stated that on receipt of the Order of the Government, a Meeting of the Parent-Teacher Association Executive Committee was convened

on 8.11.2006 and it was decided that the name of the School shall be changed according to the decision of the Government, in all the Boards and decided to intimate the order to all those concerned. It is stated that the name of the School was changed back to the original name as "Govt. Lower Primary School, Kuzhimanna" immediately after convening of the meeting on 8.11.2006. It is further stated that from the School records, it is learnt that when Shri K. Abdul Razak was the PTA President, which was during the academic year 2002 - 2003, none of the children of the said Abdul Razak was studying in that School during that period. It is further stated that no records are available in the School with respect to the decision taken by the Panchayat regarding the change of name of the School. Ext.R1 (b) is the resolution passed on 22.9.2003 by the Panchayat, objecting to the change in the name.

3. A Statement is also filed by the Government. It is, inter alia, stated that the School was primarily started in the property of K. Alikutty Haji in 1954 on rent. Proper

compensation was paid to the said K. Alikutty Haji for the acquisition. A Counter Affidavit is also filed by the third respondent. Reliance is placed on the resolution dated 22.9.2003.

4. Heard counsel for the parties. Counsel for the Panchayat, of course, would submit that they abide by Ext.P2. It is no doubt true that neither the petitioner, nor the Panchayat was heard before Ext.P5 was passed. It is also true that the Government has passed Ext.P5 order without considering Ext.P2. Petitioner is a Member of the PTA. It is to be noted that going by the Minutes of the Meeting of the Executive Committee of the PTA produced as Ext.R1(a), two decisions relevant to the issue appear to have been made. Firstly, it is stated that the change of the name of the School was intimated to every one. Secondly, it is decided to change the name of the School in the School Boards. In view of the fact that the Executive Committee has already accepted the decision of the Government as evident from the aforesaid two decisions taken, I

do not think that this is a fit case where I should direct the matter to be reconsidered at the instance of the petitioner who is only a Member of the Parent Teacher Association. The Writ Petition fails and it is dismissed.

K. M. JOSEPH, JUDGE

kbk.